

24

HIGH COURT OF JUDICATURE AT BILASPUR : CHHATTISGARH

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO. 2196 OF 2006

PETITIONER

:

SUNIL BHAGAT

S/o Ramvilas Ram, aged about 29 years, R/o Gram Panchayat Jokari, Tahsil and Janpad Panchayat Kunkuri, District Jashpur (C.G.).

Versus

RESPONDENTS:

1.

STATE OF CHHATTISGARH

Through-Secretary, Panchayat Department, Mantralaya, D.K.S. Bhawan, Raipur. (C.G.)

2.

COLLECTOR, Panchayat Branch, Jashpur (C.G.).

3.

SUB-DIVISIONAL OFFICER (Revenue) District – Jashpur (C.G.).

4.

PRESIDING OFFICER/ TAHSILDAR, KUNKURI, District – Jashpur (C.G.).

Present : Shri Gurudev Sharan, learned counsel for the petitioner.
Shri Yaswant Singh, learned G.A. for the respondents.

(ORAL ORDER)
(Passed on 27th April, 2006)

Against the order impugned in this writ petition, admittedly, a legal remedy is provided under section 21(4) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short "the Adhiniyam"). The petitioner did not avail of that remedy within the time prescribed under the Adhiniyam. This writ petition is filed for a direction to the second respondent herein to entertain the reference that may be made by the petitioner under Section 21 (4) of the Adhiniyam beyond the prescribed limitation and to decide the reference on merit. The request is misconceived and cannot be granted.

Article 226 power is not meant to circumvent the statutory provisions. It is true that the power of this Court is not controlled or limited by the limitation prescribed by the statutes. In an appropriate case, if this Court is satisfied that due to certain unavoidable circumstances and factors, an applicant could not avail of statutory remedy within the prescribed limitation and if the Court declines to step in under Article 226 of the Constitution, it would result in failure of justice, it may intervene and pass appropriate orders. This is not one such case. Nothing is stated to the satisfaction of the Court as to why the petitioner did not avail of the remedy by way of reference under Section 21(4) of the Adhiniyam within the limitation period. In that view of the matter, the writ petition is dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Sd/-